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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/248,595 02/11/99 FEENEY

B F-5761-SPALD

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EXAMINER

ARYANPOUR, M

ART UNIT PAPER NUMBER

3711 #18

DATE MAILED:

11/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. <b>09/248,595</b>	Applicant(s) <b>Brian P. Feeney et al</b>
Examiner <b>Mitra Aryanpour</b>	Group Art Unit <b>3711</b>

Responsive to communication(s) filed on Sep 18, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 1-6, 8-12, 17, and 18 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-6, 8-12, 17, and 18 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: claim 1, line 2 “[properties], said game ball]” please indicate what has been deleted. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Friese et al (4,755,187)** in view of **Walters (5,069,935)**.

Friese et al shows a method of waterproofing leather by “fatliquoring” agents which produces extremely soft leather and reduces permeability to water. Essentially the process is for the tanning of leather, comprising at least the steps of dyeing and/or tanning, retanning and fatliquoring, the improvement for imparting waterproof properties to the leather.

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Friese et al uses the “end product” for shoe upper leather, garment quality suede and heavy suede, however, Friese et al does not specifically indicate applying the method on a leather for a football.

Walters shows a game ball with a tanned leather cover (26) that has moisture resistance properties; a lining (27) made from a sheet (28) of vinyl-impregnated polyester fabric containing two or three plies; and an inflatable bladder (34) made of butyl rubber or a synthetic material is known in the art (Column 3, lines 38-52 and Column 4, line 24-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the “fatliquored” method of Friese et al to the football of Walters in order to provide a waterproofed leather football.

Regarding the preamble recitation that the ball is a “game ball” no patentable weight is given to the term “game ball” because such is a functional term. The leather can be used on any product including a game ball.

Regarding the recitation “wherein when said ball is subjected to three 90 minute cycles of a rain test, . . . . . such ration being a maximum of 1.25:1.”, such is not given patentable weight because such is a “method of testing” the “end product” under various test conditions in order to determine its durability, i.e. 90 minutes cycles of a rain test, and it is considered to be functional language.

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Regarding claim 2, the recitation of “wherein, said ratio is a maximum of 1.15:1”, no patentable weight has been given since the ratio is a result of subjecting the “product” to specific test procedures.

Regarding claims 5 and 6, Walters shows a vinyl-impregnated polyester fabric containing two or three plies. Although applicant has removed the “vinyl” limitation from the claim, still a “polyester” fabric is vinyl-impregnated, and it is well known to use a lining made from the groups consisting of epoxy, polyester and urethane materials.

Regarding the recitation in claim 3, “wherein when said ball is subjected to six 45 minute cycles of a rain test, . . . . at the conclusion of said six rain test cycles being a maximum of 1.19:1.” no patentable weight has been give since it is a “method of testing” the “end product” ” under various test conditions in order to determine its durability, i.e. 45 minute cycles of rain test, and it is considered to be functional language.

Regarding claim 4, the recitation of “wherein, said ratio is a maximum of 1.10:1”, no patentable weight has been given since the ratio is a result of subjecting the “product” to specific test procedures.

Regarding the recitation in claim 8, “wherein when said ball is . . . . maximum 90 g of water at the conclusion of said sixth rain test cycle.” no patentable weight has been give since it is a “method of testing” the “end product” ” under various test conditions in order to determine its durability, i.e. six 45 minute cycles of rain test, and it is considered to be functional language.

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Regarding claim 9, the recitation of “wherein, said ball will absorb . . . . maximum of 65g . . . . at the conclusion of said sixth rain test cycle.”, no patentable weight has been given since the ratio is a result of subjecting the “product” to specific test procedures.

Regarding claim 10, the recitation of “wherein, said ball will absorb a maximum per cycle water gain of 115 g water . . . . test cycle.”, no patentable weight has been given since the ratio is a result of subjecting the “product” to specific test procedures.

Regarding claim 11, Friese et al shows a method of waterproofing leather by “fatliquoring” agents which produces extremely soft leather and reduces permeability to water. Essentially the process is for the tanning of leather, comprising at least the steps of dyeing and or tanning, retanning and fatliquoring, the improvement for imparting waterproof properties to the leather.

Regarding the preamble recitation that the ball is a “game ball” no patentable weight is given to the term “game ball” because such is a functional term. The leather can be used on any product including a game ball such as the one disclosed by Walters.

Regarding claim 12, the recitation of “wherein when . . . .maximum of 1.25:1.”, no patentable weight has been given since the ratio is a result of subjecting the “product” to specific test procedures.

Regarding claim 17, the recitation of “wherein when . . . .maximum of 1.27:1 . . . . Conclusion of said first rain test cycle.”, no patentable weight has been given since the ratio is a result of subjecting the “product” to specific test procedures.

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Regarding claim 18, the recitation of "wherein when . . . . maximum of 110 g of water . . . . fourth cycle of said rain test.", no patentable weight has been given since the ratio is a result of subjecting the "product" to specific test procedures.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-6, 8-12, 17 and 18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

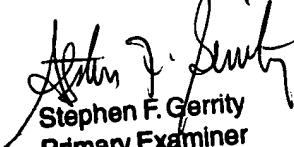
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is (703) 508-3550. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, Steve Gerrity, can be reached on (703) 308-1279. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

MA

November 27, 2000

  
Stephen F. Gerrity  
Primary Examiner